

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

CECIL JOHNSON

Plaintiff,

v

DR. BRUCE LEVY, in his official capacities  
as the Chief Medical Examiner for the  
State of Tennessee and Medical  
Examiner for the Metropolitan  
Government of Nashville and  
Davidson County, Tennessee; and

RICKY BELL, in his official capacity as  
Warden, Reverend Maximum  
Security Institution.

No.

**DEATH PENALTY CASE**

**EXECUTION DATE 12/2/09 at 1:00 a.m.**

C O M P L A I N T

I N T R O D U C T I O N

1. On December 2, 2009, at 1:00 a.m., the State of Tennessee intends to kill Plaintiff Cecil Johnson by lethal injection. Thereafter, Defendant Dr. Bruce Levy intends to perform an autopsy on Mr. Workman's body. Because performing that autopsy would violate a sincere religious belief held by Mr. Johnson, pursuant to 42 U.S.C. § 1983 this Court should enjoin Dr. Levy from performing it.

PARTIES

2. Plaintiff Cecil Johnson is a condemned inmate residing at Riverbend Maximum Security Institution, Nashville, Davidson County, Tennessee.

3. Defendant Dr. Bruce Levy is the Chief Medical Examiner for the State of Tennessee and for the Metropolitan Government of Nashville and Davidson County, Tennessee. Mr. Johnson sues Dr. Levy in his official capacities.

4. Defendant Ricky Bell is the Warden of Reverend Maximum Security Institution. Mr. Johnson sues Warden Bell in his official capacity.

#### JURISDICTION/VENUE

5. In this action, Mr. Johnson seeks injunctive relief pursuant to 42 U.S.C. § 1983.

6. Mr. Johnson's 1983 claim arises from a federal statute. This Court therefore has jurisdiction over that claim pursuant to 28 U.S.C. § 1331.

7. Venue is proper in Tennessee's Middle District because the injury Mr. Johnson seeks to prevent would occur in the Middle District. 28 U.S.C. § 1391.

8. Mr. Johnson is unaware of any State administrative remedy for requesting that Dr. Levy not perform an autopsy on his body.

#### FACTS

9. The State of Tennessee intends to execute Mr. Johnson on December 2, 2009, at 1:00 a.m., by lethal injection.

10. After any execution of Mr. Johnson, Warden Bell intends to give Mr. Johnson's body to Dr. Levy who intends to perform thereafter an autopsy on Mr. Johnson's body.

11. During the autopsy Dr. Levy will, among other things, cut open Mr. Johnson's body, sever organs from the body, and dissect the severed organs.

12. Mr. Johnson has a sincerely held religious belief that treating his body as discussed in paragraph 11 would be a mutilation of his body amounting to a desecration in violation of his

beliefs. See Declaration of Cecil Johnson and Rev. James (Tex) Thomas, attached as Exhibits 1 & 2.

#### CLAIM FOR RELIEF

42 U.S.C. § 1983/FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION

12. Mr. Johnson incorporates the preceding paragraphs.

13. Mr. Johnson's sincerely held religious belief outweighs any interest Dr. Levy may have in performing an autopsy on his body.

14. Dr. Levy cannot prove that performing an autopsy on Mr. Johnson's body is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest.

WHEREFORE, Mr. Johnson respectfully requests that this Court

1. Enjoin Warden Bell from giving Mr. Johnson's body to Dr. Levy;
2. Enjoin Dr. Levy from performing an autopsy on Mr. Johnson's body; and
3. Order such other relief as this Court deems just.

Respectfully submitted,



Donald E. Dawson, BPR #010723  
POST-CONVICTION DEFENDER  
530 Church Street - Suite 600  
Nashville, Tennessee 37243  
(615) 741-9385

  
James Winston Tiller, BPR #023932 *DEO*

Tiller-Allison PLLP  
501 Union St, Ste. 502  
Nashville, TN 37219

### CERTIFICATE OF SERVICE

I certify that on December 1, 2009, I sent a copy by email of the foregoing to:

Bob Cooper  
ATTORNEY GENERAL AND REPORTER  
500 Charlotte Avenue  
Nashville, Tennessee 37243; and

Sue B. Cain  
Director of Law  
Law Department for the Metropolitan Government of  
Nashville and Davidson County, Tennessee  
225 Polk Avenue - Suite 210  
Nashville, Tennessee 37203



NOTICE OF REFUSAL TO PERFORM AUTOPSY

BE IT KNOWN to all men, all persons, and all authorities in the State of Tennessee and otherwise, that I, Cecil Corteze Johnson II, demand that my body NOT be autopsied by any entity, institution, Medical facility, or any other persons, upon my death..

My strong personal religious convictions, do not allow for my body to be desecrated in any such manner such as is rendered in an autopsy. An intravenous draw of blood may be kept for any state inquiries mandated by law for their statistical requirements, but in no way is my body to be cut upon after my death has occurred.

My wife, Sarah Ann Johnson is to take immediate possession of my body, to prepare for my burial and memorial services. I am to be buried in my plot at Bunker's Edenvale Cemetery, 1401 Las Vegas Blvd. North, Las Vegas, Clark County, Nevada.

Signed at Riverbend Maximum Security Institution, Nashville, Tennessee, on this 1 day of December, 2009.

Cecil C. Johnson II

Cecil Corteze Johnson II

State of Tennessee )

County of Davidson )

Subscribed and sworn to this 1<sup>st</sup> day of December, 2009

M. Dianne Travis  
NOTARY



My Commission Expires SEPT. 3, 2012



12/1/09

I, James Thomas, do hereby swear to the following:

1. I am Cecil Johnson's spiritual adviser
2. Cecil Johnson has clearly indicated he does not desire an autopsy of his body should the state of Tennessee execute him
3. Cecil Johnson makes this request on the basis of his religious conscience
4. As a baptized Christian of the Protestant tradition, Cecil Johnson on the basis of his relationship with his Lord, is the only person who can determine whether or not his religious beliefs dictate him to oppose an autopsy
5. It is my firm understanding that for the state of Tennessee to violate Cecil's final request in this matter would be a fundamental overturning of his religious conscience and his relationship to Jesus Christ.

  
The Rev. James Thomas

Pastor, for 38 years, Jefferson Street Missionary Baptist Church

  
